

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

UNITED STATES OF AMERICA	§	
<i>ex rel.</i> DAVID R. VAVRA and	§	
JERRY HYATT,	§	
	§	
Plaintiffs,	§	
	§	CIVIL ACTION NO. 1:04-CV-00042
VS.	§	
	§	DEFENDANT PANALPINA, INC.'S
KELLOGG BROWN & ROOT,	§	NOTICE OF MOTION AND MOTION TO
INC., BOB BENNETT, WESTCO	§	EXTEND TIME TO ANSWER OR
INTERNATIONAL, INC., PHIL	§	OTHERWISE RESPOND TO SECOND
ELDERS AND PANALPINA, INC.,	§	AMENDED ORIGINAL COMPLAINT
	§	
Defendants.	§	[Filed Concurrently With Declaration of
	§	Mary Carter Andruess]

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that defendant Panalpina, Inc. ("Panalpina") hereby moves the Court for an Order extending the time to answer or otherwise respond to the Second Amended Original Complaint ("SAC") from April 2, 2010 to May 3, 2010.

The motion to extend time is based on the following grounds: (i) Standing Order MC-12; (ii) the agreement of all parties to the proposed extension; (iii) the fact that undersigned counsel for Panalpina was retained on March 29, 2010 and has not yet had an opportunity to review the complaint fully and prepare a response to the complaint. An extension also will provide the parties with an opportunity to discuss the status of the case.

The Motion is based on this Notice, the Memorandum of Points and Authorities, the Declaration of Mary Carter Andruess concurrently filed herewith, the pleadings and papers on file in this matter, and on such other evidence as may be presented at the hearing on this Motion, should one be necessary.

Dated: April 2, 2010

Respectfully submitted,

/s/ Amy C. Dinn

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ATTORNEYS FOR DEFENDANT
Panalpina, Inc.

MEMORANDUM OF POINTS AND AUTHORITIES

A thirty (30) day extension of time to answer or otherwise respond to the SAC is warranted here. As set forth in the concurrently filed Declaration of Mary Carter Andruess (“Andruess Decl.”), Arent Fox was retained to represent Defendant Panalpina, Inc. (“Panalpina”) on March 29, 2010. Andruess Decl. at ¶ 3. Arent Fox has not yet had the opportunity to conduct a complete review of the SAC and case file. Arent Fox understands that currently, an answer or other response to the SAC is due on April 2, 2010. Andruess Decl. at ¶ 4.

An extension will provide Arent Fox with time to review the case file, discuss the case with the United States Attorney’s Office and relators’ counsel, and draft an answer or other response to the SAC. Andruess Decl. at ¶ 8. Arent Fox has contacted the Assistant United States Attorney responsible for this matter and counsel for the relators, and they have indicated that they have no opposition to the thirty-day extension requested herein. Andruess Decl. at ¶¶ 5-7.

For the foregoing reasons, Panalpina respectfully requests this Court enter an Order, pursuant to Standing Order MC-12, extending its time to answer or otherwise respond to the SAC to May 3, 2010.

Dated: April 2, 2010

Respectfully submitted,

/s/ Amy C. Dinn

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Panalpina, Inc.

CERTIFICATE OF SERVICE

I certify that a copy of this notice and motion was served upon all counsel of record via the Court's ECF filing system on April 2, 2010.

/s/ Amy C. Dinn

Amy C. Dinn